

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATE OF AMERICA, : **DECLARATION**

- against : **08 Cr. 317 (AKH)**

CEDRIC FLEMMING, :

Defendant. :

-----X

I, CEDRIC FLEMMING, hereby declare under penalties of perjury, pursuant to 28 U.S.C.

Sec. 1746:

1. I am the defendant in this case. I make this Declaration in support of a motion to suppress physical evidence seized from me on the date of my arrest, January 17, 2008 and statements made by me to law enforcement authorities subsequent to my arrest on that date. Because this statement is being made for a limited purpose, I do not state each and every detail of what happened.

2. On the morning of January 17, 2008, I left an apartment building located at 306 E. 171st Street in the Bronx, New York.

3. At the time I left the apartment building, I was in possession of a handgun. The gun was wrapped inside a white sock. I was carrying the gun in the back of my waistband. The gun in the sock was further concealed by a sweatshirt and a jacket that I was wearing. The gun was not visible to any other person.

4. Shortly after I left the apartment building, I was approached by uniformed police officers. The officers told me to "come here." I complied with their request.

5. The officers asked me what I was doing and I said I was coming from the apartment building.

6. After I told the officers I was coming from the apartment building, one of the police officers patted me down and found the gun I was carrying. After a further search, the police also discovered a small amount of marijuana I was carrying.

7. I have read the criminal complaint filed in this case and know that it says that the police stopped me after they saw me “raise my arms” and “observed a black firearm located in my waistband.” These statements are not true. I did not raise my arms at any point before I was stopped and frisked by the police. The gun I was carrying was wrapped in a white sock and is not a black color. Because the gun was in the back of my waistband, was wrapped in a white sock and was concealed by both a jacket and a sweatshirt, I do not believe it would have been visible to any other person even if I had raised my arms. Other than being in possession of the gun and marijuana, I was not engaged in any illegal or suspicious behavior at the time of my arrest.

8. Following my arrest, I made written and oral statements to the police regarding my possession of the gun.

Dated: New York, New York
May 20, 2008



CEDRIC FLEMMING

Tel.: (212) 417-8718

To: MICHAEL GARCIA, ESQ.
United States Attorney
Southern District of New York
One St. Andrew's Plaza
New York, New York 10007
Attn.: **NATALIE LAMARQUE.**
Assistant United States Attorney